

This matter is before the Court on the Recommendation to Deny the Plaintiff's Motion for Temporary Restraining Order and Grant the Defendant's Motion to Dismiss (Doc. 23) (the "Recommendation") of United States Magistrate Judge Charles H. Weigle. The Magistrate Judge, having reviewed the Plaintiff's Motion for Temporary Restraining Order (Doc. 17), recommends denying it because the Plaintiff is no longer incarcerated at Men's State Prison. The Magistrate Judge also recommends granting the Defendant's Motion to Dismiss (Doc. 8) because the Plaintiff failed to exhaust his administrative remedies with regard to the prostate gland treatment claim; failed to allege deliberate indifference with regard to the physical therapy claim; and failed to establish he was subjected to unlawful discrimination because of his disability with regard to his Americans with Disabilities Act claim. The Plaintiff filed an objection to the Recommendation (Doc. 24) (the "Objection"). Pursuant to 28 U.S.C. § 636(b)(1), the Court has thoroughly considered the Objection and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects.

The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge. The Motion for Temporary Restraining Order is **DENIED** and the Motion to Dismiss is **GRANTED**. In light of the dismissal, the Plaintiff's Motion to Compel Lifting of Stay (Doc. 19) is **DENIED** as moot.

SO ORDERED, this the 8th day of March, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT